

LEGISLATURE OF NEBRASKA  
NINETY-SIXTH LEGISLATURE  
FIRST SESSION

**LEGISLATIVE BILL 803**

Introduced by Government, Military and Veterans Affairs Committee:  
Schimek, 27, Chairperson; Cudaback, 36; Janssen, 15;  
Kremer, 34; Quandahl, 31; Schmitt, 41; Smith, 48;  
Vrtiska, 1; and Wickersham, 49

Read first time January 20, 1999

Committee: Government, Military and Veterans Affairs

A BILL

1 FOR AN ACT relating to local government; to amend sections 10-127,  
2 10-131, 10-133, 10-142, 13-503, 13-2202, 23-2323.03,  
3 32-567, 74-1305, 77-2704.31, 77-2711, 77-4105, and  
4 77-4106, Reissue Revised Statutes of Nebraska, and  
5 sections 23-2301, 23-2306, 23-2331, 77-3442, and 77-3443,  
6 Revised Statutes Supplement, 1998; to authorize creation  
7 of municipal counties; to authorize a local sales and use  
8 tax; to provide retirement benefits; to harmonize  
9 provisions; and to repeal the original sections.  
10 Be it enacted by the people of the State of Nebraska,

1           Section 1. One or more counties and at least one of the  
2 municipalities in each county may create a municipal county to  
3 carry out all county services and all municipal services. A  
4 municipal county shall be created by passage of a joint resolution  
5 by the counties and municipalities involved placing the issue on  
6 the ballot at the next primary, general, or special election. The  
7 resolution shall specify which counties and municipalities will be  
8 dissolved upon creation of the municipal county, the number of  
9 council members and whether they will be elected by district or at  
10 large, and whether an elected sheriff or assessor is to be  
11 retained.

12           Whenever registered voters of any county or municipality  
13 equal in number to ten percent of the total vote cast for Governor  
14 in the county or municipality at the preceding election petition  
15 the respective county board, city council, or village board of  
16 trustees to pass a resolution as contemplated by this section, it  
17 shall be the duty of the county board, city council, or village  
18 board to pass a resolution within sixty days placing the issue on  
19 the ballot at the next primary, general, or special election.  
20 Petitions shall be filed with the county clerk, election  
21 commissioner, city clerk, or other officer having charge of the  
22 records of the governing body. The official shall immediately  
23 ascertain the number of registered voters signing such petitions  
24 and transmit his or her findings, along with the petition to the  
25 county board, city council, or village board of trustees.

26           Sec. 2. (1) A municipal county created under section 1  
27 of this act shall be governed by a council of five to nine members,  
28 at least a majority of which shall be elected by district. The

1 council members shall be elected on a nonpartisan ballot. The area  
2 involved in the consolidation shall be divided into districts of as  
3 equal population as possible so that at least a majority of the  
4 members of the council are elected by district. The division shall  
5 be made by the county board members of each county involved by  
6 January 31 of the year in which the council members are to be  
7 elected. A majority of the council members shall constitute a  
8 quorum for the purpose of transacting business. The council shall  
9 annually elect a chairperson from among its members. Each council  
10 member shall be elected to a four-year term beginning with the  
11 first general election following the formation, except that at the  
12 first election, fifty to sixty percent of the members shall be  
13 elected to four-year terms and the others shall be elected to  
14 two-year terms.

15 If there are to be at-large members, the district elected  
16 members are to be elected to four-year terms and the at-large  
17 members elected to two-year terms. If there are to be no at-large  
18 members, the members elected to four-year terms and the members  
19 elected to two-year terms shall be selected by lot. Initial  
20 elections of the council members and the executive shall be  
21 completed by May 15 of the year the municipal county is created.

22 (2) There shall also be elected an executive officer to  
23 operate the executive functions of the municipal county. The  
24 executive officer shall be elected to a four-year term beginning  
25 with the first general election following the formation of the  
26 municipal county.

27 (3) The resolution proposing creation of the municipal  
28 county may retain the elected county sheriff or elected county

1 assessor. If such elected officials are to be retained, the  
2 officials in office at the time the municipal county is created may  
3 be retained or if there are more than one such elected officials in  
4 office at the time the municipal county is created, the officials  
5 shall be elected together with the council members and executive of  
6 the municipal county.

7           Sec. 3. A municipal county has the powers and duties of  
8 counties and shall fulfill the same role as other counties and  
9 county officials of the municipal county as would be applicable to  
10 a county of the same population as the municipal county. Any  
11 reference in law to counties shall be deemed to refer to a  
12 municipal county. A municipal county has the powers and duties of  
13 cities and villages as would be applicable to the largest  
14 municipality consolidating into the municipal county. Any  
15 reference in law to cities, villages, or municipalities shall be  
16 deemed to apply also to a municipal county.

17           Sec. 4. (1) A municipal county may adopt ordinances, and  
18 any such ordinances shall supersede those of any other municipality  
19 or county within the municipal county.

20           (2) All ordinances shall be passed pursuant to such rules  
21 and regulations as the council may provide, and all such ordinances  
22 may be proved by the certificate of the council. When printed or  
23 published in book or pamphlet form and purporting to be published  
24 by authority of the municipal county, such ordinances shall be read  
25 and received in evidence in all courts and places without further  
26 proof. The passage, approval, and publication or posting of an  
27 ordinance shall be sufficiently proved by a certificate from the  
28 council showing that the ordinance was passed and approved and when

1 and in what newspaper the ordinance was published or when, by whom,  
2 and where the ordinance was posted. When ordinances are published  
3 in book or pamphlet form, purporting to be published by authority  
4 of the council, the same need not be otherwise published; and the  
5 book or pamphlet shall be received as evidence of the passage and  
6 legal publication of the ordinances, as of the dates mentioned in  
7 the book or pamphlet, in all courts without further proof.

8           Sec. 5. All ordinances and resolutions or orders for the  
9 appropriation or payment of money shall require for their passage  
10 or adoption the concurrence of a majority of all members of the  
11 council present.

12           Ordinances of a general or permanent nature shall be read  
13 by title on three different days unless three-fourths of the  
14 members vote to suspend this requirement.

15           Ordinances shall contain no subject which is not clearly  
16 expressed in the title, and, except as provided in section 19-915,  
17 no ordinance or section thereof shall be revised or amended unless  
18 the new ordinance contains the entire ordinance or section as  
19 revised or amended and the ordinance or section so amended is  
20 repealed, except that for an ordinance revising all the ordinances  
21 of the municipal county the only title necessary shall be An  
22 ordinance of the municipal county of ....., revising all the  
23 ordinances of the municipal county. Under such title all the  
24 ordinances may be revised in sections and chapters or otherwise,  
25 may be corrected, added to, and any part suppressed, and may be  
26 repealed with or without a saving clause as to the whole or any  
27 part without other title.

28           Sec. 6. The style of ordinances shall be: "Be it

1 ordained by the council of the municipal county of  
2 .....," and all ordinances of a general nature shall,  
3 within fifteen days after they are passed, be published in one or  
4 more newspapers in general circulation within the municipal county,  
5 or in pamphlet form, to be distributed or sold, as may be provided  
6 by ordinance; and every ordinance fixing a penalty or forfeiture  
7 for its violation shall, before the same takes effect, be published  
8 for at least one week in some manner above prescribed. In cases of  
9 riots, infectious diseases or other impending danger, or any other  
10 emergency requiring its immediate operation, such ordinance shall  
11 take effect upon the proclamation of the council immediately upon  
12 its first publication.

13           Sec. 7. A municipal county may levy up to one dollar per  
14 one hundred dollars of taxable value not including bonded  
15 indebtedness. From the levy authority of the municipal county, the  
16 municipal county may allocate to miscellaneous political  
17 subdivisions as provided in section 77-3443 and may allocate up to  
18 forty-five cents of levy authority to any municipality which is  
19 within the borders of the municipal county, but is not part of the  
20 municipal county. In no event shall the levies of the municipal  
21 county, any miscellaneous political subdivisions allocated levy  
22 authority by the municipal county, and any municipality which is  
23 not a part of the municipal county total more than one dollar per  
24 one hundred dollars of taxable value on any one parcel in the  
25 municipal county, except for bonded indebtedness approved according  
26 to law, lease-purchase agreements approved prior to July 1, 1998,  
27 and judgments obtained against the municipal county or one of its  
28 predecessors which obligates the municipal county to pay the

1 judgment to the extent not paid by liability insurance and except  
2 as provided in section 77-3444.

3           Sec. 8.     (1) The powers granted by sections 1 to 7 of  
4 this act shall not be exercised unless and until the question has  
5 been submitted at a primary, general, or special election held  
6 within the county or counties involved and in which registered  
7 voters within the boundaries of the proposed municipal county are  
8 entitled to vote on such question. The ballot question may combine  
9 the issues of creation of the municipal county, the merger of the  
10 county or counties and its offices, the merger of each municipality  
11 proposed to be merged, and the authorization of local sales and use  
12 tax under section 12 of this act.

13           (2) The officials of each county and each municipality  
14 seeking to form the municipal county shall order the submission of  
15 the question for creation by submitting a certified copy of the  
16 resolution calling for creation to the election commissioner or  
17 county clerk. The question may include any terms or conditions set  
18 forth in the resolution, such as the timing of the consolidation  
19 implementation, the number and method of election of council  
20 members, and any proposed name for the municipal county, and shall  
21 specifically state any offices to be abolished.

22           (3) The election commissioner or county clerk shall give  
23 notice of the submission of the question not more than thirty days  
24 nor less than ten days before the election by publication one time  
25 in one or more newspapers published in or of general circulation  
26 within the boundaries of the proposed municipal county in which the  
27 question is to be submitted. This notice is in addition to any  
28 other notice required under the Election Act.

1           (4) The vote shall be tallied for (a) all those voting on  
2 the question, (b) those voting who reside in any county and any  
3 municipalities which would be consolidated into the municipal  
4 county, and (c) those voting who reside in each county but outside  
5 any municipality which would be consolidated into the municipal  
6 county. If a majority of those voting on the question, a majority  
7 of those voting in at least one county to be consolidated, a  
8 majority of those voting in at least one municipality which is in  
9 one county voting in favor of consolidation, and a majority of  
10 those voting in areas in the county which are outside any  
11 municipality to be consolidated, vote in favor of consolidation,  
12 the municipal county shall be deemed to be created for such  
13 counties and municipalities according to the terms of the  
14 resolution. If no date of creation is provided in the resolution,  
15 the municipal county shall be deemed to be created on the following  
16 July 1. Any county in which a majority of voters approve the  
17 consolidation shall be deemed to be abolished and any municipality  
18 in such county which was proposed to be consolidated and in which a  
19 majority of voters approve the consolidation shall be deemed to be  
20 abolished. If a majority of those voting on the question are  
21 opposed, if a majority of voters in no county approve, if a  
22 majority of voters in no municipality which is in a county which  
23 approved, approve, or if a majority of voters in areas in a county  
24 which are outside any municipality to be consolidated are opposed,  
25 the municipal county shall not be created.

26           (5) If a municipality within the boundaries of a  
27 municipal county is not a part of the municipal county either  
28 because the governing body of the municipality did not approve the



1 resolution seeking inclusion or because the voters of the  
2 municipality disapproved the consolidation, the municipality may  
3 later seek inclusion into an existing municipal county by passing a  
4 resolution seeking inclusion and approval by the voters at a  
5 primary, general, or special election. The officials of the  
6 municipality shall deliver a certified copy of the resolution to  
7 the appropriate officer of the municipal county proposing  
8 inclusion. If a majority of those voting in the municipality  
9 approve inclusion, the municipality shall be merged into the  
10 municipal county. If a majority of those voting in the  
11 municipality disapprove, it shall not be merged.

12 (6) Any election under this section shall be conducted in  
13 accordance with the procedures provided in the Election Act.

14 Sec. 9. Approval of the formation of a municipal county  
15 shall abolish all county and municipal offices at the end of the  
16 current officeholders' term except as provided in subsection (3) of  
17 section 2 of this act and shall terminate all sanitary and  
18 improvement districts and townships located within the municipal  
19 county. Any officers of a sanitary improvement district shall  
20 continue to hold office until all bond obligations are released.  
21 Any special assessments may continue for the duration of the  
22 project. All debt of abolished sanitary and improvement districts  
23 and counties and municipalities consolidated into a municipal  
24 county shall remain the responsibility of the sanitary and  
25 improvement district, county, or municipality responsible at the  
26 time consolidation is approved.

27 Sec. 10. Municipalities which remain within a municipal  
28 county and are not consolidated into the municipal county shall

1 retain the authority to levy property taxes not to exceed  
2 forty-five cents per one hundred dollars of taxable property except  
3 as provided in sections 77-3442 and 77-3444. The tax shall be in  
4 addition to the tax levied by the municipal county.

5           Sec. 11. (1) A municipal county may be dissolved by  
6 submitting at a primary, general, or special election held within  
7 the county or counties involved and in which all registered voters  
8 are entitled to vote on such question. The ballot question may  
9 combine the issues of dissolution of the municipal county, the  
10 division of the municipal county into the county or counties and  
11 its offices, and the division of each merged municipality.

12           (2) The council of the municipal county shall order the  
13 submission of the question for dissolution by submitting a  
14 certified copy of the resolution calling for dissolution to the  
15 election official. The question may include any terms or  
16 conditions set forth in the resolution, such as the services to be  
17 provided by the municipalities and the timing of the dissolution  
18 implementation and shall include any offices to be reestablished.

19           (3) The election official shall give notice of the  
20 submission of the question not more than thirty days nor less than  
21 ten days before the election by publication one time in one or more  
22 newspapers published in or of general circulation in the municipal  
23 county in which the question is to be submitted. This notice is in  
24 addition to any other notice required under the Election Act.

25           (4) The vote shall be tallied for all those voting on the  
26 question. If a majority of those voting on the question vote in  
27 favor of dissolution, the municipal county shall be deemed to be  
28 dissolved according to the terms of the resolution.

1           (5) Any election under this section shall be conducted in  
2           accordance with the procedures provided in the Election Act.

3           Sec. 12.   (1) A municipal county by ordinance of its  
4           council may impose a sales and use tax of one-half percent, one  
5           percent, or one and one-half percent upon the same transactions  
6           within the municipal county on which the state is authorized to  
7           impose a tax pursuant to the Nebraska Revenue Act of 1967, as  
8           amended from time to time, except that the agreement and resolution  
9           may reserve sales tax authority for the municipalities within the  
10          municipal county. The tax levied by the municipal county and the  
11          municipalities shall both be imposed over the entire area contained  
12          within each government, but the total tax imposed may not exceed  
13          one and one-half percent on any transactions. The relative share  
14          of sales and use tax authority held by the municipal county and the  
15          municipalities within the boundaries of the municipal county shall  
16          only be altered by joint agreement and submission of the issue to  
17          the voters in the municipal county.

18          (2) A municipal county shall not impose a sales and use  
19          tax over an area not previously subject to a local sales and use  
20          tax or increase the tax until an election is held and a majority of  
21          the qualified electors have approved the tax or increase. The  
22          ballot issue proposing approval of a new sales and use tax or the  
23          increase or territorial extension of an existing sales and use tax  
24          may be combined with the issue proposing creation of a municipal  
25          county.

26          Sec. 13.   (1) The Tax Commissioner shall administer all  
27          sales and use taxes adopted under section 12 of this act. The Tax  
28          Commissioner may prescribe forms and adopt and promulgate

1 reasonable rules and regulations in conformity with the Nebraska  
2 Revenue Act of 1967, as amended, for the making of returns and for  
3 the ascertainment, assessment, and collection of taxes. The  
4 council shall furnish a certified copy of the adopting or repealing  
5 resolution to the Tax Commissioner in accordance with such rules  
6 and regulations. The tax shall begin the first day of the next  
7 calendar quarter following receipt by the Tax Commissioner of the  
8 certified copy of the adopted resolution if the certified copy of  
9 the adopted resolution is received sixty days prior to the start of  
10 the next calendar quarter.

11 (2) For resolutions containing a termination date, the  
12 termination date is the first day of a calendar quarter. The  
13 council shall furnish a certified statement to the Tax Commissioner  
14 no more than one hundred twenty days and at least sixty days before  
15 the termination date stating that the termination date in the  
16 resolution is still valid. If the certified statement is not  
17 furnished within the prescribed time, the tax shall remain in  
18 effect, and the Tax Commissioner shall continue to collect the tax  
19 until the first day of the calendar quarter which is at least sixty  
20 days after receipt of the certified statement notwithstanding the  
21 termination date stated in the resolution.

22 (3) The Tax Commissioner shall collect the sales and use  
23 tax concurrently with collection of a state tax in the same manner  
24 as the state tax is collected. The Tax Commissioner shall remit  
25 monthly the proceeds of the tax to the municipal county imposing  
26 the tax, after deducting the amount of refunds made and three  
27 percent of the remainder as an administrative fee necessary to  
28 defray the cost of collecting the tax and the expenses incident

1 thereto. The Tax Commissioner shall keep full and accurate records  
2 of all money received and distributed. All receipts from the three  
3 percent administrative fee shall be deposited in the state General  
4 Fund.

5 (4) Upon any claim of illegal assessment and collection,  
6 the taxpayer has the same remedies provided for claims of illegal  
7 assessment and collection of the state tax. It is the intention of  
8 the Legislature that the provisions of law which apply to the  
9 recovery of state taxes illegally assessed and collected apply to  
10 the recovery of sales and use taxes illegally assessed and  
11 collected under section 12 of this act.

12 Sec. 14. The proceeds of the sales and use tax imposed  
13 by a municipal county under section 12 of this act shall be  
14 distributed to the municipal county for deposit in its general  
15 fund.

16 Sec. 15. (1) All relevant provisions of the Nebraska  
17 Revenue Act of 1967, as amended, not inconsistent with sections 12  
18 to 14 of this act, shall govern transactions, proceedings, and  
19 activities pursuant to any sales and use tax imposed by a municipal  
20 county.

21 (2) For the purposes of the sales and use tax imposed by  
22 a municipal county, all retail sales, rentals, and leases, as  
23 defined and described in the Nebraska Revenue Act of 1967, are  
24 consummated:

25 (a) At the place where title, possession, or segregation  
26 takes place, with the exception of sales or leases or rentals for  
27 more than one year of motor vehicles, trailers, semitrailers, and  
28 motorboats, if a purchaser takes possession of tangible personal

1 property within a municipal county, which has enacted a tax under  
2 section 22 of this act, regardless of the business location of the  
3 Nebraska retailer;

4 (b) At the point of delivery of utility services and  
5 community antenna television services or where such services are  
6 provided, with the exception that Nebraska intrastate message toll  
7 telephone and telegraph services which are consummated in the  
8 county where the customer is normally billed for such services;

9 (c) At the physical location of individual vending  
10 machines; and

11 (d) At the place designated on the application for  
12 registration for motor vehicles, trailers, semitrailers, and  
13 motorboats sold or leased or rented for more than one year.

14 Sec. 16. Section 10-127, Reissue Revised Statutes of  
15 Nebraska, is amended to read:

16 10-127. The Nebraska Highway Bond Commission, any  
17 county, city, village, municipal county, school district, drainage  
18 district, irrigation district, public power district, public power  
19 and irrigation district, metropolitan utilities district, the Board  
20 of Regents of the University of Nebraska, the Board of Trustees of  
21 the Nebraska State Colleges, community colleges, sanitary and  
22 improvement districts, rural water districts, airport authorities,  
23 hospital authorities, or any other municipal corporation or  
24 governmental subdivision of the state which has the power to issue  
25 bonds or other evidences of indebtedness may issue bonds or other  
26 evidences of indebtedness of like date, tenor, amount, and maturity  
27 to replace mutilated, destroyed, stolen, or lost bonds or other  
28 evidences of indebtedness previously issued and having attached

1 thereto the same corresponding unmatured coupons, if any, as were  
2 attached to the mutilated, destroyed, stolen, or lost bonds or  
3 other evidences of indebtedness. Issuance of replacement bonds or  
4 other evidences of indebtedness of like date, tenor, amount, and  
5 maturity may be made (1) in exchange and in substitution for such  
6 mutilated bond or other evidence of indebtedness and attached  
7 unmatured coupons, if any, upon surrender of such mutilated bond or  
8 other evidence of indebtedness and attached unmatured coupons, if  
9 any, or (2) in lieu of and in substitution for the destroyed,  
10 stolen, or lost bond or other evidence of indebtedness and attached  
11 unmatured coupons. In the event such bond or other evidence of  
12 indebtedness and attached unmatured coupons, if any, have been  
13 destroyed, stolen, or lost, the holder thereof shall first file  
14 with the issuer evidence satisfactory to it that such bond or other  
15 evidence of indebtedness and attached unmatured coupons have been  
16 destroyed, stolen, or lost and of such holder's ownership thereof  
17 and shall in any event furnish the issuer with indemnity  
18 satisfactory to it and shall comply with any statutory requirements  
19 and with such other requirements as the issuer may require. A  
20 charge, not exceeding the actual cost thereof, shall be imposed  
21 upon such owner to reimburse the issuer for the expenses for  
22 issuing each such new bond or evidence of indebtedness, which cost  
23 shall be paid before the delivery of the new bond or evidence of  
24 indebtedness. Instead of issuing a substituted bond or evidence of  
25 indebtedness or instead of delivery of any coupon for a bond or  
26 evidence of indebtedness, as the case may be, which has matured or  
27 which is about to mature and instead of issuing a substituted bond  
28 or other evidence of indebtedness for a bond or other evidence of

1 indebtedness which has been called for redemption, the issuer, upon  
2 receiving evidence and being indemnified as provided in this  
3 section, at its option may pay the bond or other evidence of  
4 indebtedness or such coupon from any source lawfully available  
5 therefor without the surrender thereof.

6           Sec. 17.   Section 10-131, Reissue Revised Statutes of  
7 Nebraska, is amended to read:

8           10-131.   Notwithstanding any other provisions of the  
9 statutes of the State of Nebraska with respect to the issuance of  
10 bonds, interest coupons, and other evidence of indebtedness by any  
11 county, city, village, municipal county, school district, public  
12 power district, public power and irrigation district, airport  
13 authority, sanitary and improvement district, or any other  
14 municipal corporation or political subdivision, if any bond or  
15 other evidence of indebtedness is signed by more than one officer  
16 of such issuer, one of the signatures shall be manually affixed  
17 thereto and the other signatures may be facsimile signatures of  
18 such officers, and with respect to any interest coupons  
19 appertaining to any bond or evidence of indebtedness, the  
20 signatures on such interest coupon may be facsimile signatures.

21           Sec. 18.   Section 10-133, Reissue Revised Statutes of  
22 Nebraska, is amended to read:

23           10-133.   Any county, city, village, municipal county,  
24 school district, public power district, public power and irrigation  
25 district, airport authority, sanitary and improvement district, or  
26 any other municipal corporation or political subdivision is hereby  
27 authorized to pay fiscal and consultant fees incurred with respect  
28 to issuance and sale of any bonds, notes, or other evidence of



1 indebtedness out of the proceeds from the sale of such bonds or any  
2 other funds available to the issuer, and such payment shall not  
3 constitute or be considered as a discount with respect to the sale  
4 price of the bonds, notes, or other evidence of indebtedness.

5           Sec. 19.     Section 10-142, Reissue Revised Statutes of  
6 Nebraska, is amended to read:

7           10-142.   Any county, city, village, municipal county,  
8 school district, drainage district, irrigation district,  
9 metropolitan utilities district, rural water district, airport  
10 authority, or hospital authority, the Board of Regents of the  
11 University of Nebraska, the Board of Trustees of the Nebraska State  
12 Colleges, the governing board of any community college, or any  
13 other municipal or public corporation, governmental subdivision, or  
14 body politic or corporate created under Nebraska law exercising  
15 essential public functions of the state which has issued or shall  
16 issue bonds for any purpose, and such bonds or any part of such  
17 bonds remain unpaid and are a legal liability against such issuer  
18 and are bearing interest, is hereby authorized to issue refunding  
19 bonds with which to call and redeem all or any part of such  
20 outstanding bonds at or before the maturity or the redemption date  
21 of such bonds. Such issuer may include various series and issues  
22 of the outstanding bonds in a single issue of refunding bonds and  
23 issue refunding bonds to pay any redemption premium and interest to  
24 accrue and become payable on the outstanding bonds being refunded.  
25 The refunding bonds may be issued and delivered at any time prior  
26 to the date of maturity or the redemption date of the bonds to be  
27 refunded that the governing body of such issuer determines to be in  
28 its best interests.   The proceeds derived from the sale of the

1 refunding bonds issued pursuant to this section may be invested in  
2 obligations of or guaranteed by the United States Government  
3 pending the time the proceeds are required for the purposes for  
4 which such refunding bonds were issued. To further secure the  
5 refunding bonds, any such issuer may enter into a contract with any  
6 bank or trust company within or without the state with respect to  
7 the safekeeping and application of the proceeds of the refunding  
8 bonds and the safekeeping and application of the earnings on the  
9 investment. All bonds issued under the provisions of this section  
10 shall be redeemable at such times and under such conditions as the  
11 governing body of the issuer shall determine at the time of  
12 issuance.

13 Any outstanding bonds or other evidences of indebtedness  
14 issued by any such issuer for which sufficient funds or obligations  
15 of or guaranteed by the United States Government have been pledged  
16 and set aside in safekeeping to be applied for the complete payment  
17 of such bonds or other evidence of indebtedness at maturity or upon  
18 redemption prior to maturity, interest thereon, and redemption  
19 premium, if any, shall not be considered as outstanding and unpaid.

20 Each new refunding bond so issued shall state on the bond  
21 (1) the object of its issue, (2) this section or sections of the  
22 law under which such issue was made, including a statement that the  
23 issue is made in pursuance of such section or sections, and (3) the  
24 date and principal amount of the bond or bonds for which the  
25 refunding bonds are being issued.

26 Sec. 20. Section 13-503, Reissue Revised Statutes of  
27 Nebraska, is amended to read:

28 13-503. For purposes of the Nebraska Budget Act, unless

1 the context otherwise requires:

2 (1) Governing body shall mean, in the case of a city, the  
3 council; in the case of a village, cemetery district, community  
4 hospital for two or more adjoining counties, road improvement  
5 district, sanitary drainage district, or sanitary and improvement  
6 district, the board of trustees; in the case of a county, the  
7 county board; in the case of a municipal county, the council; in  
8 the case of a township, the town board; in the case of a school  
9 district, the school board; in the case of a rural or suburban fire  
10 protection district, reclamation district, natural resources  
11 district, or hospital district, the board of directors; in the case  
12 of a health district, the board of health; in the case of an  
13 educational service unit, the board; in the case of a community  
14 college, the Community College Board of Governors for the area the  
15 board serves; in the case of an airport authority, the airport  
16 authority board; in the case of a weed control authority, the  
17 board; and in the case of a county agricultural society, the board  
18 of directors;

19 (2) Levying board shall mean any governing body which has  
20 the power or duty to levy a tax;

21 (3) Fiscal year shall mean the twelve-month period used  
22 by each governing body in determining and carrying on its financial  
23 and taxing affairs;

24 (4) Tax shall mean any general or special tax levied  
25 against persons, property, or business for public purposes as  
26 provided by law but shall not include any special assessment;

27 (5) Auditor shall mean the Auditor of Public Accounts;

28 (6) Cash reserve shall mean funds required for the period

1 before revenue would become available for expenditure but shall not  
2 include funds held in any special reserve fund;

3 (7) Public funds shall mean all money, including nontax  
4 money, used in the operation and functions of governing bodies.  
5 For purposes of a county, city, or village which has a lottery  
6 established under the Nebraska County and City Lottery Act, only  
7 those net proceeds which are actually received by the county, city,  
8 or village from a licensed lottery operator shall be considered  
9 public funds, and public funds shall not include amounts awarded as  
10 prizes;

11 (8) Adopted budget statement shall mean a proposed budget  
12 statement which has been adopted or amended and adopted as provided  
13 in section 13-506. Such term shall include additions, if any, to  
14 an adopted budget statement made by a revised budget which has been  
15 adopted as provided in section 13-511; and

16 (9) Special reserve fund shall mean any special fund set  
17 aside by the governing body for a particular purpose and not  
18 available for expenditure for any other purpose. Funds created for  
19 (a) the retirement of bonded indebtedness, (b) the funding of  
20 employee pension plans, (c) the purposes of the Political  
21 Subdivisions Self-Funding Benefits Act, (d) the purposes of the  
22 Local Option Municipal Economic Development Act, (e) voter-approved  
23 sinking funds, or (f) statutorily authorized sinking funds shall be  
24 considered special reserve funds.

25 Sec. 21. Section 13-2202, Reissue Revised Statutes of  
26 Nebraska, is amended to read:

27 13-2202. For purposes of the Local Government  
28 Miscellaneous Expenditure Act:

1           (1) Elected and appointed officials and employees shall  
2 mean the elected and appointed officials and employees of any local  
3 government;

4           (2) Governing body shall mean, in the case of a city of  
5 any class, the council; in the case of a village, cemetery  
6 district, community hospital for two or more adjoining counties,  
7 county hospital, road improvement district, sanitary drainage  
8 district, or sanitary and improvement district, the board of  
9 trustees; in the case of a county, the county board; in the case of  
10 a municipal county, the council; in the case of a township, the  
11 town board; in the case of a school district, the school board; in  
12 the case of a rural or suburban fire protection district,  
13 reclamation district, natural resources district, or hospital  
14 district, the board of directors; in the case of a health district,  
15 the board of health; in the case of an educational service unit,  
16 the board; in the case of a community college, the Community  
17 College Board of Governors for the area the board serves; in the  
18 case of an airport authority, the airport authority board; in the  
19 case of a weed control authority, the board; and in the case of a  
20 county agricultural society, the board of governors;

21           (3) Local government shall mean cities of any class,  
22 villages, cemetery districts, community hospitals for two or more  
23 adjoining counties, county hospitals, road improvement districts,  
24 counties, townships, sanitary drainage districts, sanitary and  
25 improvement districts, school districts, rural or suburban fire  
26 protection districts, reclamation districts, natural resources  
27 districts, hospital districts, health districts, educational  
28 service units, community colleges, airport authorities, weed

1 control authorities, and county agricultural societies;

2 (4) Public funds shall mean such public funds as defined  
3 in section 13-503 as are under the direct control of governing  
4 bodies of local governments;

5 (5) Public meeting shall mean all regular, special, or  
6 called meetings, formal or informal, of any governing body for the  
7 purposes of briefing, discussion of public business, formation of  
8 tentative policy, or the taking of any action of the governing  
9 body; and

10 (6) Volunteer shall mean a person who is not an elected  
11 or appointed official or an employee of a local government and who,  
12 at the request or with the permission of the local government,  
13 engages in activities related to the purposes or functions of the  
14 local government or for its general benefit.

15 Sec. 22. (1) For purposes of this section:

16 (a) Political subdivision includes villages, cities of  
17 all classes, counties, municipal counties, school districts, public  
18 power districts, and all other units of local government, including  
19 entities created by local public agencies pursuant to the  
20 Interlocal Cooperation Act. Political subdivision does not include  
21 any contractor with a political subdivision;

22 (b) Receiving entity means a political subdivision which  
23 receives transferred employees from a separate political  
24 subdivision; and

25 (c) Transferring entity means a political subdivision  
26 which is transferring employees to a separate political  
27 subdivision.

28 (2) For transfers involving a retirement system which

1 maintains a defined benefit plan, the transfer value of the  
2 transferring employee's accrued benefit shall be calculated by one  
3 or both of the retirement systems involved as follows:

4       (a) If the retirement system of the transferring entity  
5 maintains a defined benefit plan, an initial benefit transfer value  
6 of the employee's accrued benefit shall be determined by  
7 calculating the present value of the employee's retirement benefit  
8 based on the employee's years of service as of the date of transfer  
9 and the other actuarial assumptions of the retirement system of the  
10 transferring entity so that the effect on the retirement system of  
11 the transferring entity will be actuarially neutral; and

12       (b) If the retirement system of the receiving entity  
13 maintains a defined benefit plan, the final benefit transfer value  
14 of the employee's accrued benefit shall be determined by  
15 calculating the present value of the employee's retirement benefit  
16 as if the employee were employed on the date of transfer and had  
17 completed the same amount of service with the same compensation as  
18 the employee actually completed at the transferring entity prior to  
19 transfer. The calculation shall then be based on the employee's  
20 assumed years of service as of the date of transfer and the other  
21 actuarial assumptions of the retirement system of the receiving  
22 entity so that the effect on the retirement system of the receiving  
23 entity will be actuarially neutral.

24       (3)(a) A full-time or part-time employee of a  
25 transferring entity who becomes an employee of a receiving entity  
26 pursuant to a merger of services shall receive credit for his or  
27 her years of participation in the retirement system of the  
28 transferring entity for purposes of membership in the retirement

1 system of the receiving entity.

2           (b)(i) If the retirement system of the receiving entity  
3 maintains a defined contribution plan, the employee shall transfer  
4 all of his or her funds by paying to the retirement system of the  
5 receiving entity from funds held by the retirement system of the  
6 transferring entity an amount equal to one of the following: (A)  
7 If the retirement system of the transferring entity maintains a  
8 defined benefit plan, an amount not to exceed the initial benefit  
9 transfer value, leaving no funds attributable to the transferred  
10 employee within the retirement system of the transferring entity,  
11 or (B) if the retirement system of the transferring entity  
12 maintains a defined contribution plan, an amount not to exceed the  
13 employee and employer accounts of the transferring employee plus  
14 earnings during the period of employment with the transferring  
15 entity. The employee shall receive eligibility and vesting credit  
16 for his or her years of service in a governmental plan, as defined  
17 in section 414(d) of the Internal Revenue Code, maintained by the  
18 transferring entity. Payment shall be made within five years after  
19 employment begins with the receiving entity or prior to retirement,  
20 whichever comes first, and may be made through direct payment,  
21 installment payments, or an irrevocable payroll deduction  
22 authorization.

23           (ii) If the retirement system of the receiving entity  
24 maintains a defined benefit plan, the employee shall transfer all  
25 of his or her funds out of the retirement system of the  
26 transferring entity to purchase service credits that will generate  
27 a final benefit transfer value not to exceed the employee's initial  
28 benefit transfer value in the retirement system of the transferring



1 entity. After such purchase, the employee shall receive  
2 eligibility and vesting credit in the retirement system of the  
3 receiving entity for his or her years of service in a governmental  
4 plan, as defined in section 414(d) of the Internal Revenue Code,  
5 maintained by the transferring entity. The election to purchase  
6 service credit shall be made within three years after the  
7 employment begins with the receiving entity. The amount to be paid  
8 by the member for such service credit shall equal the actuarial  
9 cost to the retirement system of the receiving entity for allowing  
10 such additional service credit to the employee. If any funds  
11 remain in the retirement system of the transferring entity after  
12 the employee has purchased service credits in the retirement system  
13 of the receiving entity, such remaining funds shall be rolled over  
14 into another qualified trust under section 401(a) of the Internal  
15 Revenue Code, an individual retirement account, or an individual  
16 retirement annuity. Payment shall be made within five years after  
17 the employee elects to purchase the service credit or prior to  
18 retirement, whichever comes first, and may be made through direct  
19 payment, installment payments, or an irrevocable payroll deduction  
20 authorization.

21 (4) The transferring entity, the receiving entity, and  
22 the employees who are being transferred may by binding agreement  
23 determine which parties will provide funds to pay any amount needed  
24 to purchase creditable service in the retirement system of the  
25 receiving entity sufficient to provide a final benefit transfer  
26 value not to exceed the employee's initial benefit transfer value,  
27 if the amount of a direct rollover from the retirement system of  
28 the transferring entity is not sufficient to provide a final

1 benefit transfer value in the retirement system of the receiving  
2 entity.

3       (5) The retirement system of the receiving entity may  
4 accept cash rollover contributions from a member who is making  
5 payment pursuant to this section if the contributions do not exceed  
6 the amount of payment required for the service credits purchased by  
7 the member and the contributions represent (a) all or any portion  
8 of the balance of the member's interest in a qualified trust under  
9 section 401(a) of the Internal Revenue Code or (b) the interest of  
10 the member from an individual retirement account or an individual  
11 retirement annuity, the entire of which is attributable to a  
12 qualified total distribution, as defined in the Internal Revenue  
13 Code, from a qualified trust under section 401(a) of the code and  
14 qualified as a tax-free rollover amount. The member's interest  
15 under subdivision (a) or (b) of this subsection must be transferred  
16 to the retirement system within sixty days after the date of the  
17 distribution from the qualified trust, individual retirement  
18 account, or individual retirement annuity.

19       (6) Cash transferred to the retirement system of the  
20 receiving entity as a rollover contribution shall be deposited as  
21 other contributions.

22       (7) The retirement system of the receiving entity may  
23 accept direct rollover distributions made from a qualified trust  
24 pursuant to section 401(a)(31) of the Internal Revenue Code. The  
25 direct rollover distribution shall be deposited as all other  
26 payments under this section.

27       (8) The receiving entity or its retirement system shall  
28 adopt provisions defining procedures for acceptance of rollovers

1 which are consistent with sections 401(a)(31) and 402 of the  
2 Internal Revenue Code.

3 (9) If thirty-five percent or more of the members of the  
4 retirement system of a transferring entity leave the system as a  
5 result of a transfer or merger of services, the retirement system  
6 shall be deemed partially or totally terminated. Each employee  
7 remaining in such a retirement system which maintained a defined  
8 benefit plan shall be entitled to the initial benefit transfer  
9 value of the employee's accrued benefit. Each employee remaining  
10 in such a retirement system which maintained a defined contribution  
11 plan shall be entitled to the total amount in the employee and  
12 employer accounts of the employee plus earnings during the period  
13 of employment. If there are any funds left in such a retirement  
14 system after distributions to the employees as provided in this  
15 subsection, the remaining funds shall become the property of the  
16 transferring entity or its successor in interest.

17 (10) Any retirement system authorized pursuant to section  
18 14-1805, 15-1017, 16-1004, 16-1023, 19-3501, or 23-1118 or section  
19 27 of this act or any retirement system for a city of the  
20 metropolitan class authorized pursuant to home rule charter shall  
21 be modified to conform with this section prior to any merger of  
22 service involving such system.

23 Sec. 23. Section 23-2301, Revised Statutes Supplement,  
24 1998, is amended to read:

25 23-2301. For purposes of the County Employees Retirement  
26 Act, unless the context otherwise requires:

27 (1)(a) Compensation means gross wages or salaries payable  
28 to the member for personal services performed during the plan year.

1 Compensation does not include insurance premiums converted into  
2 cash payments, reimbursement for expenses incurred, fringe  
3 benefits, or bonuses for services not actually rendered, including,  
4 but not limited to, early retirement inducements, cash awards, and  
5 severance pay, except for retroactive salary payments paid pursuant  
6 to court order, arbitration, or litigation and grievance  
7 settlements. Compensation includes overtime pay, member retirement  
8 contributions, and amounts contributed by the member to plans under  
9 sections 125, 403(b), and 457 of the Internal Revenue Code or any  
10 other section of the code which defers or excludes such amounts  
11 from income.

12 (b) Compensation in excess of the limitations set forth  
13 in section 401(a)(17) of the Internal Revenue Code shall be  
14 disregarded. For an employee who was a member of the retirement  
15 system before the first plan year beginning after December 31,  
16 1995, the limitation on compensation shall not be less than the  
17 amount which was allowed to be taken into account under the  
18 retirement system as in effect on July 1, 1993;

19 (2) Date of adoption of the retirement system by each  
20 county means the first day of the month next following the date of  
21 approval of the retirement system by the county board or January 1,  
22 1987, whichever is earlier;

23 (3) Date of disability means the date on which a member  
24 is determined by the board to be disabled;

25 (4) Disability means an inability to engage in a  
26 substantially gainful activity by reason of any medically  
27 determinable physical or mental impairment which can be expected to  
28 result in death or be of a long and indefinite duration;

1           (5) Eligibility and vesting credit means credit for  
2 years, or a fraction of a year, of participation in a Nebraska  
3 governmental plan for purposes of determining membership in the  
4 retirement system and vesting the employer account;

5           (6) Employees means all persons or officers who are  
6 employed by a county of the State of Nebraska on a permanent basis,  
7 persons or officers employed by or serving in a municipal county  
8 formed by at least one county participating in the retirement  
9 system, persons employed as provided in section 2-1608, all elected  
10 officers of a county, and such other persons or officers as are  
11 classified from time to time as permanent employees by the county  
12 board of the county by whom they are employed, except that  
13 employees does not include judges, employees or officers of any  
14 county having a population in excess of one hundred fifty thousand  
15 inhabitants, or, except as provided in section 23-2306, persons  
16 making contributions to the School Retirement System of the State  
17 of Nebraska;

18           (7) Five-year break in service means a period of five  
19 consecutive one-year breaks in service;

20           (8) Full-time employee means an employee who is employed  
21 to work one-half or more of the regularly scheduled hours during  
22 each pay period;

23           (9) Future service means service following the date of  
24 adoption of the retirement system;

25           (10) Group annuity contract means the contract issued by  
26 one or more life insurance companies to the board in order to  
27 provide the future service benefits described in the act;

28           (11) Guaranteed investment contract means an investment

1 contract or account offering a return of principal invested plus  
2 interest at a specified rate. For investments made after July 19,  
3 1996, guaranteed investment contract does not include direct  
4 obligations of the United States or its instrumentalities, bonds,  
5 participation certificates or other obligations of the Federal  
6 National Mortgage Association, the Federal Home Loan Mortgage  
7 Corporation, or the Government National Mortgage Association, or  
8 collateralized mortgage obligations and other derivative  
9 securities. This subdivision shall not be construed to require the  
10 liquidation of investment contracts or accounts entered into prior  
11 to July 19, 1996;

12 (12) One-year break in service means a plan year during  
13 which the member has not completed more than five hundred hours of  
14 service;

15 (13) Part-time employee means an employee who is employed  
16 to work less than one-half of the regularly scheduled hours during  
17 each pay period;

18 (14) Plan year means the twelve-month period beginning on  
19 January 1 and ending on December 31;

20 (15) Prior service means service prior to the date of  
21 adoption of the retirement system;

22 (16) Regular interest means the rate of interest earned  
23 each calendar year as determined by the retirement board in  
24 conformity with actual and expected earnings on the investments;

25 (17) Required contribution means the deduction to be made  
26 from the compensation of employees as provided in the act;

27 (18) Retirement means qualifying for and terminating  
28 employment after becoming qualified to receive the retirement

1 allowance granted under the act;

2 (19) Retirement board or board means the Public Employees  
3 Retirement Board;

4 (20) Retirement system means the Retirement System for  
5 Nebraska Counties;

6 (21) Service means the actual total length of employment  
7 as an employee and is not deemed to be interrupted by (a) temporary  
8 or seasonal suspension of service that does not terminate the  
9 employee's employment, (b) leave of absence authorized by the  
10 employer for a period not exceeding twelve months, (c) leave of  
11 absence because of disability, or (d) military service, when  
12 properly authorized by the retirement board. Service does not  
13 include any period of disability for which disability retirement  
14 benefits are received under section 23-2315;

15 (22) Straight life annuity means an ordinary annuity,  
16 payable for the life of the primary annuitant only, and terminating  
17 at his or her death without refund or death benefit of any kind;

18 (23) Surviving spouse means (a) the spouse married to the  
19 member on the date of the member's death or (b) the spouse or  
20 former spouse of the member if survivorship rights are provided  
21 under a qualified domestic relations order filed with the board  
22 pursuant to the Spousal Pension Rights Act. The spouse or former  
23 spouse shall supersede the spouse married to the member on the date  
24 of the member's death as provided under a qualified domestic  
25 relations order. If the benefits payable to the spouse or former  
26 spouse under a qualified domestic relations order are less than the  
27 value of benefits entitled to the surviving spouse, the spouse  
28 married to the member on the date of the member's death shall be

1 the surviving spouse for the balance of the benefits; and

2           (24) Termination of employment occurs on the date on  
3 which a county which is a member of the retirement system  
4 determines that its employer-employee relationship with an employee  
5 is dissolved. The county shall notify the board in writing within  
6 two weeks after the date such a termination is deemed to have  
7 occurred. Termination of employment does not occur if an employee  
8 whose employer-employee relationship with a county is dissolved (a)  
9 enters into an employer-employee relationship with another county  
10 which participates in the Retirement System for Nebraska Counties  
11 and (b) has completed or will complete more than five hundred hours  
12 of service in a plan year in which such change in employment  
13 occurs. It shall be the responsibility of the current employer to  
14 notify the board in writing of such change in employment and  
15 provide the board with such information as the board deems  
16 necessary. If the board determines that termination of employment  
17 has not occurred and a termination benefit has been paid to a  
18 member of the retirement system pursuant to section 23-2319, the  
19 board shall require the member who has received such benefit to  
20 repay the benefit to the retirement system.

21           Sec. 24. Section 23-2306, Revised Statutes Supplement,  
22 1998, is amended to read:

23           23-2306. (1) The membership of the retirement system  
24 shall be composed of (a) all full-time employees who have been  
25 employees for a period of twelve continuous months, except that  
26 full-time elected officials shall be members on taking office, (b)  
27 all full-time or part-time employees who have attained the age of  
28 twenty-five, have been employed for a total of twelve months within



1 a five-year period, and exercise the option to join the retirement  
2 system, and (c) all part-time elected officials who exercise the  
3 option to join the retirement system. A part-time employee who  
4 exercises the option to join the retirement system shall remain in  
5 the system until termination or retirement.

6 (2) Within the first thirty days of employment, a  
7 full-time employee may apply to the board for eligibility and  
8 vesting credit for years of participation in another Nebraska  
9 governmental plan, as defined by section 414(d) of the Internal  
10 Revenue Code. During the years of participation in the other  
11 Nebraska governmental plan, the employee must have been a full-time  
12 employee.

13 (3) Any employee who qualifies for membership in the  
14 retirement system pursuant to this section may not be disqualified  
15 for membership in the retirement system solely because such  
16 employee also maintains separate employment which qualifies the  
17 employee for membership in another public retirement system, nor  
18 may membership in this retirement system disqualify such an  
19 employee from membership in another public retirement system solely  
20 by reason of separate employment which qualifies such employee for  
21 membership in this retirement system.

22 (4) A full-time or part-time employee of a city, village,  
23 or township who becomes a county employee pursuant to a merger of  
24 services shall receive credit for his or her years of employment  
25 with the city, village, or township for purposes of the membership  
26 provisions of this section and shall receive eligibility and  
27 vesting credit for his or her years of participation in a Nebraska  
28 governmental plan, as defined by section 414(d) of the Internal

1 Revenue Code, of the city, village, or township.

2           (5) A full-time or part-time employee of a city, village,  
3 fire protection district, or township who becomes a municipal  
4 county employee shall receive credit for his or her years of  
5 employment with the city, village, fire protection district, or  
6 township for purposes of the membership provisions of this section.

7           Sec. 25.     Under such rules and regulations as the  
8 retirement board adopts and promulgates, a full-time or part-time  
9 employee of a city, village, fire protection district, or township  
10 who becomes a municipal county employee shall transfer all of his  
11 or her funds in the retirement system of the city, village, fire  
12 protection district, or township by paying to the Retirement System  
13 for Nebraska Counties from funds held by the retirement system of  
14 the city, village, fire protection district, or township an amount  
15 equal to one of the following: (1) If the retirement system of the  
16 city, village, fire protection district, or township maintains a  
17 defined benefit plan, an amount not to exceed the initial benefit  
18 transfer value as provided in section 22 of this act, leaving no  
19 funds attributable to the transferred employee within the  
20 retirement system of the city, village, fire protection district,  
21 or township; or (2) if the retirement system of the city, village,  
22 fire protection district, or township maintains a defined  
23 contribution plan, an amount not to exceed the employee and  
24 employer accounts of the transferring employee plus earnings during  
25 the period of employment with the city, village, fire protection  
26 district, or township. The employee shall receive eligibility and  
27 vesting credit for his or her years of service in a governmental  
28 plan, as defined in section 414(d) of the Internal Revenue Code,

1 maintained by the city, village, fire protection district, or  
2 township. Payment shall be made within five years after employment  
3 begins with the receiving entity or prior to retirement, whichever  
4 comes first, and may be made through direct payment, installment  
5 payments, or an irrevocable payroll deduction authorization.

6           Sec. 26. Section 23-2323.03, Reissue Revised Statutes of  
7 Nebraska, is amended to read:

8           23-2323.03.     (1) The retirement system may accept cash  
9 rollover contributions from a member who is making payment pursuant  
10 to section 23-2306.02, 23-2320, or 23-2323.01 or section 25 of this  
11 act if the contributions do not exceed the amount authorized to be  
12 paid by the member pursuant to section 23-2306.02, 23-2320, or  
13 23-2323.01 or section 25 of this act, and the contributions  
14 represent (a) all or any portion of the balance of the member's  
15 interest in a qualified trust under section 401(a) of the Internal  
16 Revenue Code or (b) the interest of the member from an individual  
17 retirement account or an individual retirement annuity, the entire  
18 amount of which is attributable to a qualified total distribution,  
19 as defined in the Internal Revenue Code, from a qualified trust  
20 under section 401(a) of the code and qualified as a tax-free  
21 rollover amount. The member's interest under subdivision (a) or  
22 (b) of this subsection must be transferred to the retirement system  
23 within sixty days from the date of the distribution from the  
24 qualified trust, individual retirement account, or individual  
25 retirement annuity.

26           (2) Cash transferred to the retirement system as a  
27 rollover contribution shall be deposited as other payments made  
28 under section 23-2306.02, 23-2320, or 23-2323.01 or section 25 of

1 this act.

2 (3) The retirement system may accept direct rollover  
3 distributions made from a qualified trust pursuant to section  
4 401(a)(31) of the Internal Revenue Code. The direct rollover  
5 distribution shall be deposited as all other payments under this  
6 section.

7 (4) The board shall adopt and promulgate rules and  
8 regulations defining procedures for acceptance of rollovers which  
9 are consistent with sections 401(a)(31) and 402 of the Internal  
10 Revenue Code.

11 Sec. 27. The municipal county shall be responsible for  
12 making contributions and performing other duties and shall exercise  
13 the powers of a county under the County Employees Retirement Act  
14 with respect to the employees of the district or government.

15 Sec. 28. Section 23-2331, Revised Statutes Supplement,  
16 1998, is amended to read:

17 23-2331. Sections 23-2301 to 23-2332 and sections 25 and  
18 27 of this act shall be known and may be cited as the County  
19 Employees Retirement Act.

20 Sec. 29. Section 32-567, Reissue Revised Statutes of  
21 Nebraska, is amended to read:

22 32-567. Vacancies in office shall be filled as follows:

23 (1) In state and judicial district offices and in the  
24 membership of any board or commission created by the state when no  
25 other method is provided, by the Governor;

26 (2) In county offices, by the county board;

27 (3) In the membership of the county board, by the county  
28 clerk, county attorney, and county treasurer;

1           (4) In township offices, by the township board or, if  
2 there are two or more vacancies on the township board, by the  
3 county board;

4           (5) In offices in public power and irrigation districts,  
5 according to section 70-615;

6           (6) In offices in natural resources districts, according  
7 to section 2-3215;

8           (7) In offices in community college areas, according to  
9 section 85-1514;

10           (8) In offices in educational service units, according to  
11 section 79-1217;

12           (9) In offices in hospital districts, according to  
13 section 23-3534;

14           (10) In offices in metropolitan utilities districts,  
15 according to section 14-2104;

16           (11) In membership on airport authority boards, according  
17 to section 3-502, 3-611, or 3-703, as applicable; ~~and~~

18           (12) In membership on the board of trustees of a road  
19 improvement district, according to section 39-1607; and

20           (13) In membership on the council of a municipal county,  
21 by the council.

22           Unless otherwise provided by law, all vacancies shall be  
23 filled within forty-five days after the vacancy occurs unless good  
24 cause is shown that the requirement imposes an undue burden.

25           Sec. 30.     Section 74-1305, Reissue Revised Statutes of  
26 Nebraska, is amended to read:

27           74-1305.   Such district shall have the power, right, and  
28 authority after notice and public hearing (1) to purchase within or

1 without such county railroad rights-of-way including the  
2 improvements, (2) to purchase land not presently owned or used by  
3 any railroad company for additional right-of-way or additional  
4 switch or yard space where changes of routes or construction of  
5 interconnections or of new railroad yards is necessary or  
6 desirable, and (3) to acquire through the exercise of the power of  
7 eminent domain, but only upon the vote of the directors of such  
8 district, which vote shall require a five-sixths majority in  
9 districts governed pursuant to subsection (1) of section 74-1304  
10 and a two-thirds majority in districts governed pursuant to  
11 subsection (2) of section 74-1304, and the written approval by each  
12 railroad involved in the contemplated relocation project, such land  
13 as set forth in subdivision (2) of this section for the purposes  
14 set forth in such subdivision, which acquisition shall follow the  
15 procedures set forth in sections 76-704 to 76-724.

16           Such land and improvements as may be acquired for the  
17 purpose of the removal of railroad trackage may be disposed of by  
18 conveying the same for reasonable consideration to a governmental  
19 entity for public purposes or by sale of the same as set forth in  
20 this section. Such new railroad rights-of-way, switches, and yards  
21 as may be obtained and constructed may be leased for use to  
22 railroads or may be sold to such railroads or may be traded to such  
23 railroads for other property belonging to such railroads.

24           Such property, real or personal, shall be sold in such  
25 manner and under such terms and conditions as the board shall deem  
26 in the best interests of the district; except that if the fair  
27 market value exceeds five thousand dollars, it may only be sold  
28 after due notice and hearing by such board at a regular meeting

1 upon the vote of a majority of such board.

2           The board of directors of such district shall also have  
3 the right and authority to enter into contracts or other  
4 arrangements with the United States Government or its departments,  
5 any persons, railroads, corporations, political subdivisions,  
6 public and municipal corporations, and the state government of this  
7 state, making full use of the Interlocal Cooperation Act, for (1)  
8 cooperation or assistance in the design, construction, maintenance,  
9 sale, or lease of the works of the district, (2) making surveys and  
10 investigations or reports in relation to the objectives of the  
11 district, (3) cooperation or assistance in obtaining the  
12 construction, maintenance, or operation of a work or works of  
13 public improvement within the district for any of the purposes  
14 described in section 74-1302, (4) receiving the title or  
15 possession, or both, of any property and funds connected directly  
16 or indirectly with the purposes described in section 74-1302, (5)  
17 assuming, and becoming bound by, any obligations, promises, or  
18 covenants so connected, or (6) holding and saving the United States  
19 or others free from damages resulting from any construction works  
20 that may be undertaken.

21           Prior to implementing any plans affecting matters of  
22 planning by or the interests of any planning commission located  
23 within such district, the interests of any municipality, county or  
24 state educational institution or school district a portion of which  
25 lies within such district, any municipal county, any agricultural  
26 society, any airport authority, any natural resources district, or  
27 any other similar political entity, and any railroads, shippers,  
28 and affected property owners, the board shall consult with and

1 submit such plans to such entities as may be concerned for study,  
2 review, comment, and suggestion. Approval of any state or federal  
3 regulatory agency shall be secured, when necessary, prior to  
4 implementing any of the provisions contained in sections 74-1301 to  
5 74-1308 and the district shall comply with the requirements of any  
6 such agency.

7           In developing plans for specific projects, to determine  
8 the feasibility of implementing the purposes of sections 74-1301 to  
9 74-1308, the district shall examine the costs and benefits to the  
10 community or communities, the railroads, and the highway users and  
11 shall calculate the costs and benefits by consideration being given  
12 but not limited to loss of revenue, increased operating costs,  
13 costs of installation, acquisition of real and personal property,  
14 relocation, signalization, communication, utilities, avoidance of  
15 hazards, creation of transportation efficiencies, resolving  
16 conflicts of land use, and any other ancillary or peripheral costs  
17 or benefits.

18           Sec. 31. Section 77-2704.31, Reissue Revised Statutes of  
19 Nebraska, is amended to read:

20           77-2704.31. If any person who causes property to be  
21 brought into this state has already paid a tax in another state in  
22 respect to the sale or use of such property in an amount less than  
23 the tax imposed by sections 13-319, 77-2703, and 77-27,142 and  
24 section 12 of this act, the provision of this section shall apply,  
25 but at a rate measured by the difference only between the rate  
26 imposed by such sections and the rate by which the previous tax on  
27 the sale or use was computed. If such tax imposed and paid in such  
28 other state is equal to or more than the tax imposed by such



1 sections, then no use tax shall be due in this state on such  
2 property if such other state, territory, or possession grants a  
3 reciprocal exclusion or exemption to similar transactions in this  
4 state.

5 Sec. 32. Section 77-2711, Reissue Revised Statutes of  
6 Nebraska, is amended to read:

7 77-2711. (1)(a) The Tax Commissioner shall enforce  
8 sections 77-2702.03 to 77-2713 and may prescribe, adopt, and  
9 enforce rules and regulations relating to the administration and  
10 enforcement of such sections.

11 (b) The Tax Commissioner may prescribe the extent to  
12 which any ruling or regulation shall be applied without retroactive  
13 effect.

14 (2) The Tax Commissioner may employ accountants,  
15 auditors, investigators, assistants, and clerks necessary for the  
16 efficient administration of the Nebraska Revenue Act of 1967 and  
17 may delegate authority to his or her representatives to conduct  
18 hearings, prescribe regulations, or perform any other duties  
19 imposed by such act.

20 (3)(a) Every seller, every retailer, and every person  
21 storing, using, or otherwise consuming in this state property  
22 purchased from a retailer shall keep such records, receipts,  
23 invoices, and other pertinent papers in such form as the Tax  
24 Commissioner may reasonably require.

25 (b) Every such seller, retailer, or person shall keep  
26 such records for not less than three years from the making of such  
27 records unless the Tax Commissioner in writing sooner authorized  
28 their destruction.

1           (4) The Tax Commissioner or any person authorized in  
2 writing by him or her may examine the books, papers, records, and  
3 equipment of any person selling property and any person liable for  
4 the use tax and may investigate the character of the business of  
5 the person in order to verify the accuracy of any return made or,  
6 if no return is made by the person, to ascertain and determine the  
7 amount required to be paid. In the examination of any person  
8 selling property or of any person liable for the use tax, an  
9 inquiry shall be made as to the accuracy of the reporting of city  
10 sales and use taxes for which the person is liable under the Local  
11 Option Revenue Act or sections 13-319 and 13-324 and section 12 of  
12 this act and the accuracy of the allocation made between the  
13 various counties, cities, and villages of the tax due. The Tax  
14 Commissioner may make or cause to be made copies of resale or  
15 exemption certificates and may pay a reasonable amount to the  
16 person having custody of the records for providing such copies.

17           (5) The taxpayer shall have the right to keep or store  
18 his or her records at a point outside this state and shall make his  
19 or her records available to the Tax Commissioner at all times.

20           (6) In administration of the use tax, the Tax  
21 Commissioner may require the filing of reports by any person or  
22 class of persons having in his, her, or their possession or custody  
23 information relating to sales of property, the storage, use, or  
24 other consumption of which is subject to the tax. The report shall  
25 be filed when the Tax Commissioner requires and shall set forth the  
26 names and addresses of purchasers of the property, the sales price  
27 of the property, the date of sale, and such other information as  
28 the Tax Commissioner may require.

1           (7) It shall be a Class I misdemeanor for the Tax  
2 Commissioner or any official or employee of the Tax Commissioner to  
3 make known in any manner whatever the business affairs, operations,  
4 or information obtained by an investigation of records and  
5 activities of any retailer or any other person visited or examined  
6 in the discharge of official duty or the amount or source of  
7 income, profits, losses, expenditures, or any particular thereof,  
8 set forth or disclosed in any return, or to permit any return or  
9 copy thereof, or any book containing any abstract or particulars  
10 thereof to be seen or examined by any person not connected with the  
11 Tax Commissioner. Nothing in this section shall be construed to  
12 prohibit (a) the delivery to a taxpayer, his or her duly authorized  
13 representative, or his or her successors, receivers, trustees,  
14 executors, administrators, assignees, or guarantors, if directly  
15 interested, of a certified copy of any return or report in  
16 connection with his or her tax, (b) the publication of statistics  
17 so classified as to prevent the identification of particular  
18 reports or returns and the items thereof, (c) the inspection by the  
19 Attorney General, other legal representative of the state, or  
20 county attorney of the reports or returns of any taxpayer when  
21 either (i) information on the reports or returns is considered by  
22 the Attorney General to be relevant to any action or proceeding  
23 instituted by the taxpayer or against whom an action or proceeding  
24 is being considered or has been commenced by any state agency or  
25 the county or (ii) the taxpayer has instituted an action to review  
26 the tax based thereon or an action or proceeding against the  
27 taxpayer for collection of tax or failure to comply with the  
28 Nebraska Revenue Act of 1967 is being considered or has been

1 commenced, (d) the furnishing of any information to the United  
2 States Government or to states allowing similar privileges to the  
3 Tax Commissioner, (e) the disclosure of information and records to  
4 a collection agency contracting with the Tax Commissioner pursuant  
5 to sections 77-377.01 to 77-377.04, or (f) the disclosure to  
6 another party to a transaction of information and records  
7 concerning the transaction between the taxpayer and the other  
8 party.

9           (8) Notwithstanding the provisions of subsection (7) of  
10 this section, the Tax Commissioner may permit the Postal Inspector  
11 of the United States Postal Service or his or her delegates to  
12 inspect the reports or returns of any person filed pursuant to the  
13 Nebraska Revenue Act of 1967 when information on the reports or  
14 returns is relevant to any action or proceeding instituted or being  
15 considered by the United States Postal Service against such person  
16 for the fraudulent use of the mails to carry and deliver false and  
17 fraudulent tax returns to the Tax Commissioner with the intent to  
18 defraud the State of Nebraska or to evade the payment of Nebraska  
19 state taxes.

20           (9) Notwithstanding the provisions of subsection (7) of  
21 this section, the Tax Commissioner may permit other tax officials  
22 of this state to inspect the tax returns, reports, and applications  
23 filed under sections 77-2702.03 to 77-2713, but such inspection  
24 shall be permitted only for purposes of enforcing a tax law and  
25 only to the extent and under the conditions prescribed by the rules  
26 and regulations of the Tax Commissioner.

27           (10) Notwithstanding the provisions of subsection (7) of  
28 this section, the Tax Commissioner may, upon request, provide the

1 county board of any county which has exercised the authority  
2 granted by section 81-1254 with a list of the names and addresses  
3 of the hotels located within the county for which lodging sales tax  
4 returns have been filed or for which lodging sales taxes have been  
5 remitted for the county's County Visitors Promotion Fund under the  
6 Nebraska Visitors Development Act.

7           The information provided by the Tax Commissioner shall  
8 indicate only the names and addresses of the hotels located within  
9 the requesting county for which lodging sales tax returns have been  
10 filed for a specified period and the fact that lodging sales taxes  
11 remitted by or on behalf of the hotel have constituted a portion of  
12 the total sum remitted by the state to the county for a specified  
13 period under the provisions of the Nebraska Visitors Development  
14 Act. No additional information shall be revealed.

15           (11) In all proceedings under the Nebraska Revenue Act of  
16 1967, the Tax Commissioner may act for and on behalf of the people  
17 of the State of Nebraska. The Tax Commissioner in his or her  
18 discretion may waive all or part of any penalties provided by the  
19 provisions of such act, but may not waive the minimum interest on  
20 delinquent taxes specified in section 45-104.02, as such rate may  
21 from time to time be adjusted, except interest on use taxes  
22 voluntarily reported by an individual.

23           Sec. 33. Section 77-3442, Revised Statutes Supplement,  
24 1998, is amended to read:

25           77-3442. (1) Property tax levies for the support of  
26 local governments for fiscal years beginning on or after July 1,  
27 1998, shall be limited to the amounts set forth in this section  
28 except as provided in section 77-3444.

1           (2)(a) Except as provided in subdivision (2)(b) of this  
2 section, school districts and multiple-district school systems may  
3 levy a maximum levy of (i) one dollar and ten cents per one hundred  
4 dollars of taxable valuation of property subject to the levy until  
5 fiscal year 2001-02 and (ii) one dollar per one hundred dollars of  
6 taxable valuation of property subject to the levy for fiscal year  
7 2001-02 and all subsequent fiscal years. Excluded from this  
8 limitation are amounts levied to pay for sums agreed to be paid by  
9 a school district to certificated employees in exchange for a  
10 voluntary termination of employment and amounts levied to pay for  
11 special building funds and sinking funds established for projects  
12 commenced prior to April 1, 1996, for construction, expansion, or  
13 alteration of school district buildings. For purposes of this  
14 subsection, commenced means any action taken by the school board on  
15 the record which commits the board to expend district funds in  
16 planning, constructing, or carrying out the project.

17           (b) Federal aid school districts may exceed the maximum  
18 levy prescribed by subdivision (2)(a) of this section only to the  
19 extent necessary to qualify to receive federal aid pursuant to  
20 Title VIII of Public Law 103-382. For purposes of this  
21 subdivision, federal aid school district means any school district  
22 which receives ten percent or more of the revenue for its general  
23 fund budget from federal government sources pursuant to Title VIII  
24 of Public Law 103-382.

25           (3) Community colleges may levy a maximum levy on each  
26 one hundred dollars of taxable property subject to the levy of (a)  
27 eight cents for fiscal year 1998-99 and fiscal year 1999-2000 and  
28 (b) seven cents for fiscal year 2000-01 and each fiscal year

1 thereafter.

2 (4) Natural resources districts may levy a maximum levy  
3 of four and one-half cents per one hundred dollars of taxable  
4 valuation of property subject to the levy.

5 (5) Educational service units may levy a maximum levy of  
6 one and one-half cents per one hundred dollars of taxable valuation  
7 of property subject to the levy.

8 (6) Incorporated cities and villages which are not within  
9 the boundaries of a municipal county may levy a maximum levy of  
10 forty-five cents per one hundred dollars of taxable valuation of  
11 property subject to the levy plus an additional five cents per one  
12 hundred dollars of taxable valuation to provide financing for the  
13 municipality's share of revenue required under an agreement or  
14 agreements executed pursuant to the Interlocal Cooperation Act.  
15 The maximum levy shall include amounts levied to pay for sums to  
16 support a library pursuant to section 51-201, museum pursuant to  
17 section 51-501, visiting community nurse, home health nurse, or  
18 home health agency pursuant to section 71-1637, or statue,  
19 memorial, or monument pursuant to section 80-202.

20 (7) Sanitary and improvement districts which have been in  
21 existence for more than five years may levy a maximum levy of forty  
22 cents per one hundred dollars of taxable valuation of property  
23 subject to the levy, and sanitary and improvement districts which  
24 have been in existence for five years or less shall not have a  
25 maximum levy.

26 (8) Counties may levy or authorize a maximum levy of  
27 fifty cents per one hundred dollars of taxable valuation of  
28 property subject to the levy, except that five cents per one

1 hundred dollars of taxable valuation of property subject to the  
2 levy may only be levied to provide financing for the county's share  
3 of revenue required under an agreement or agreements executed  
4 pursuant to the Interlocal Cooperation Act. The maximum levy shall  
5 include amounts levied to pay for sums to support a library  
6 pursuant to section 51-201 or museum pursuant to section 51-501.  
7 The county may allocate up to fifteen cents of its authority to  
8 other political subdivisions subject to allocation of property tax  
9 authority under subsection (1) of section 77-3443 and not  
10 specifically covered in this section to levy taxes as authorized by  
11 law which do not collectively exceed fifteen cents per one hundred  
12 dollars of taxable valuation on any parcel or item of taxable  
13 property. The county may allocate to one or more other political  
14 subdivisions subject to allocation of property tax authority by the  
15 county under subsection (1) of section 77-3443 some or all of the  
16 county's five cents per one hundred dollars of valuation authorized  
17 for support of an interlocal agreement or agreements to be levied  
18 by the political subdivision for the purpose of supporting that  
19 political subdivision's share of revenue required under an  
20 agreement or agreements executed pursuant to the Interlocal  
21 Cooperation Act. If an allocation by a county would cause another  
22 county to exceed its levy authority under this section, the second  
23 county may exceed the levy authority in order to levy the amount  
24 allocated.

25           (9) Municipal counties may levy or authorize a maximum  
26 levy of one dollar per one hundred dollars of taxable valuation of  
27 property subject to the levy. The municipal county may allocate  
28 levy authority to any city or village which is not consolidated



1 with the municipal county or to any political or entity subject to  
2 allocation under section 77-3443.

3       (10) Property tax levies for judgments obtained against a  
4 political subdivision which require or obligate a political  
5 subdivision to pay such judgment, to the extent such judgment is  
6 not paid by liability insurance coverage of a political  
7 subdivision, for preexisting lease-purchase contracts approved  
8 prior to July 1, 1998, and for bonded indebtedness approved  
9 according to law and secured by a levy on property are not included  
10 in the levy limits established by this section.

11       ~~(10)~~ (11) The limitations on tax levies provided in this  
12 section are to include all other general or special levies provided  
13 by law. Notwithstanding other provisions of law, the only  
14 exceptions to the limits in this section are those provided by or  
15 authorized by sections 77-3442 to 77-3444.

16       ~~(11)~~ (12) Tax levies in excess of the limitations in this  
17 section shall be considered unauthorized levies under section  
18 77-1606 unless approved under section 77-3444.

19       Sec. 34. Section 77-3443, Revised Statutes Supplement,  
20 1998, is amended to read:

21       77-3443. (1) All ~~(a)~~ political subdivisions other than  
22 (a) school districts, community colleges, natural resources  
23 districts, educational service units, cities, villages, counties,  
24 municipal counties, and sanitary and improvement districts and (b)  
25 political subdivisions subject to municipal allocation under  
26 subsection (2) of this section may levy taxes as authorized by law  
27 which are authorized by the county board of the county or the  
28 council of a municipal county in which the greatest portion of the

1 valuation is located, which are counted in the county or municipal  
2 county levy limit provided in section 77-3442, and which do not  
3 collectively total more than fifteen cents per one hundred dollars  
4 of taxable valuation on any parcel or item of taxable property for  
5 all governments for which allocations are made by the municipality,  
6 ~~ex~~ county, or municipal county, except that such limitation shall  
7 not apply to property tax levies for preexisting lease-purchase  
8 contracts approved prior to July 1, 1998, and for bonded  
9 indebtedness approved according to law and secured by a levy on  
10 property. The county board or council shall review and approve or  
11 disapprove the levy request of all political subdivisions subject  
12 to this subsection. The county board or council may approve all or  
13 a portion of the levy request and may approve a levy request that  
14 would allow the requesting political subdivision to levy a tax at a  
15 levy greater than that permitted by law. The county board of a  
16 county or the council of a municipal county which contains a  
17 transit authority created pursuant to section 14-1803 shall  
18 allocate no less than three cents per one hundred dollars of  
19 taxable property within the city subject to the levy to the transit  
20 authority if requested by such authority. For any political  
21 subdivision subject to this subsection that receives taxes from  
22 more than one county or municipal county, the levy shall be  
23 allocated only by the county or municipal county in which the  
24 greatest portion of the valuation is located. The county board of  
25 equalization shall certify all levies by October 15 to insure that  
26 the taxes levied by political subdivisions subject to this  
27 subsection do not exceed the allowable limit for any parcel or item  
28 of taxable property. The levy allocated by the county or municipal

1 county may be exceeded as provided in section 77-3444.

2           (2) All city airport authorities established under the  
3 Cities Airport Authorities Act, community redevelopment authorities  
4 established under the Community Development Law, transit  
5 authorities established under the Transit Authority Law, and  
6 offstreet parking districts established under the Offstreet Parking  
7 District Act may be allocated property taxes as authorized by law  
8 which are authorized by the city or village and are counted in the  
9 city or village levy limit or municipal county levy limit provided  
10 by section 77-3442, except that such limitation shall not apply to  
11 property tax levies for preexisting lease-purchase contracts  
12 approved prior to July 1, 1998, and for bonded indebtedness  
13 approved according to law and secured by a levy on property. The  
14 city council of a city which has created a transit authority  
15 pursuant to section 14-1803 or the council of a municipal county  
16 which contains a transit authority shall allocate no less than  
17 three cents per one hundred dollars of taxable property subject to  
18 the levy to the transit authority if requested by such authority.  
19 The city council, ~~or~~ village board, or council shall review and  
20 approve or disapprove the levy request of the political  
21 subdivisions subject to this subsection. The city council, ~~or~~  
22 village board, or council may approve all or a portion of the levy  
23 request and may approve a levy request that would allow a levy  
24 greater than that permitted by law. The levy allocated by the  
25 municipality may be exceeded as provided in section 77-3444.

26           (3) All cities contained within a municipal county which  
27 are not consolidated with the municipal county may be allocated  
28 property tax levy authority by the municipal county not to exceed

1 forty-five cents per one hundred dollars of taxable property  
2 subject to the levy and are counted in the levy limit provided by  
3 section 77-3442 except that such limitation shall not apply to  
4 property tax levies for preexisting lease-purchase contracts  
5 approved prior to July 1, 1998, and for bonded indebtedness  
6 approved according to law and secured by a levy on property.

7           (4) On or before August 1, all political subdivisions  
8 subject to county, ~~or~~ municipal, or municipal county levy authority  
9 under this section shall submit a preliminary request for levy  
10 allocation to the county board, city council, ~~or~~ village board, or  
11 council that is responsible for levying such taxes. The  
12 preliminary request of the political subdivision shall be in the  
13 form of a resolution adopted by a majority vote of members present  
14 of the political subdivision's governing body. The failure of a  
15 political subdivision to make a preliminary request shall preclude  
16 such political subdivision from using procedures set forth in  
17 section 77-3444 to exceed the final levy allocation as determined  
18 in subsection ~~(4)~~ (5) of this section.

19           (5) ~~(4)~~ Each county board, city council, ~~or~~ village  
20 board, or council shall (a) adopt a resolution by a majority vote  
21 of members present which determines a final allocation of levy  
22 authority to its political subdivisions and (b) forward a copy of  
23 such resolution to the chairperson of the governing body of each of  
24 its political subdivisions. No final levy allocation shall be  
25 changed after September 1 except by agreement between both the  
26 county board, city council, ~~or~~ Village board, or council which  
27 determined the amount of the final levy allocation and the  
28 governing body of the political subdivision whose final levy

1 allocation is at issue.

2           Sec. 35.     Section 77-4105, Reissue Revised Statutes of  
3 Nebraska, is amended to read:

4           77-4105.   (1) A taxpayer who has signed an agreement  
5 under section 77-4104 may elect to determine taxable income for  
6 purposes of the Nebraska income tax using the sales factor only.  
7 The election may be made for the year during which the application  
8 was filed and for each year thereafter through the eighth year  
9 after the end of the entitlement period. The election shall be  
10 made for the year of the election by computing taxable income using  
11 the sales factor only on the tax return.

12           (2) A taxpayer who has signed an agreement under section  
13 77-4104 shall receive the incentive provided in this subsection if  
14 the agreement contains one or more projects which together will  
15 result in the investment in qualified property of at least ten  
16 million dollars and the hiring of at least one hundred new  
17 employees. Such ten-million-dollar investment and hiring of at  
18 least one hundred new employees shall be considered a required  
19 level of investment and employment for this subsection and for the  
20 recapture of personal property tax only.

21           The following property used in connection with such  
22 project or projects and acquired by the taxpayer, whether by lease  
23 or purchase, after the date the application was filed shall  
24 constitute separate classes of personal property:

25           (a) Turbine-powered aircraft, including turboprop,  
26 turbojet, and turbofan aircraft, except when any such aircraft is  
27 used for fundraising for or for the transportation of an elected  
28 official;

1           (b) Mainframe business computers used for business  
2 information processing which require environmental controls of  
3 temperature and power and which are capable of simultaneously  
4 supporting more than one transaction and more than one user plus  
5 peripheral components which require environmental controls of  
6 temperature and power connected to such computers. Computer  
7 peripheral components shall be limited to additional memory units,  
8 tape drives, disk drives, power supplies, cooling units, and  
9 communication controllers; and

10           (c) Personal property which is business equipment located  
11 in a single project if (i) the business equipment is involved  
12 directly in the manufacture or processing of agricultural products,  
13 (ii) the investment in the single project exceeds ten million  
14 dollars, and (iii) the use, value, and proper classification of the  
15 business equipment has been certified by the Tax Commissioner.

16           Such property shall be exempt from the tax on personal  
17 property from the first January 1 following the date of acquisition  
18 for property in subdivision (2)(a) of this section, or from the  
19 first January 1 following the end of the year during which the  
20 required levels were exceeded for property in subdivisions (2)(b)  
21 and (2)(c) of this section, through the sixteenth December 31 after  
22 the filing of the application.

23           (3) When the taxpayer has met the required levels of  
24 employment and investment contained in the agreement, the taxpayer  
25 shall also be entitled to the following incentives:

26           (a) A refund of all sales and use taxes paid under the  
27 Nebraska Revenue Act of 1967, the Local Option Revenue Act, and  
28 sections 13-319 and 13-324 and section 12 of this act from the date

1 of the application through the meeting of the required levels of  
2 employment and investment for all purchases, including rentals, of:

3 (i) Qualified property used as a part of the project;

4 (ii) Property, excluding motor vehicles, based in this  
5 state and used in both this state and another state in connection  
6 with the project except when any such property is to be used for  
7 fundraising for or for the transportation of an elected official;

8 (iii) Tangible personal property by the owner of the  
9 improvement to real estate that is incorporated into real estate as  
10 a part of a project; and

11 (iv) Tangible personal property by a contractor or  
12 repairperson after appointment as a purchasing agent of the owner  
13 of the improvement to real estate. The refund shall be based on  
14 fifty percent of the contract price, excluding any land, as the  
15 cost of materials subject to the sales and use tax; and

16 (b) A refund of the sales and use taxes paid under the  
17 Nebraska Revenue Act of 1967, the Local Option Revenue Act, and  
18 sections 13-319 and 13-324 on the types of purchases, including  
19 rentals, listed in subdivision (a) of this subsection for such  
20 taxes paid during each year of the entitlement period in which the  
21 taxpayer is at or above the required levels of employment and  
22 investment.

23 (4) Any taxpayer who qualifies for the incentives  
24 contained in subsections (1) and (3) of this section and who has  
25 added at least thirty new employees at the project shall also be  
26 entitled to:

27 (a) A credit equal to five percent of the amount by which  
28 the total compensation paid during the year to employees who are

1 either Nebraska employees or base-year employees while employed at  
2 the project exceeds the average compensation paid at the project  
3 multiplied by the number of equivalent base-year employees.

4 For the computation of such credit, average compensation  
5 shall mean the total compensation paid at the project divided by  
6 the total number of equivalent employees at the project; and

7 (b) A credit equal to ten percent of the investment made  
8 in qualified property at the project.

9 The credits prescribed in subdivisions (a) and (b) of  
10 this subsection shall be allowable for compensation paid and  
11 investments made during each year of the entitlement period that  
12 the taxpayer is at or above the required levels of employment and  
13 investment.

14 The credit prescribed in subdivision (b) of this  
15 subsection shall also be allowable during the first year of the  
16 entitlement period for investment in qualified property at the  
17 project after the date of the application and before the required  
18 levels of employment and investment were met.

19 Sec. 36. Section 77-4106, Reissue Revised Statutes of  
20 Nebraska, is amended to read:

21 77-4106. (1)(a) The credits prescribed in section  
22 77-4105 shall be established by filing the forms required by the  
23 Tax Commissioner with the income tax return for the year. The  
24 credits may be used after any other nonrefundable credits to reduce  
25 the taxpayer's income tax liability imposed by sections 77-2714 to  
26 77-27,135. The credits may be used to obtain a refund of sales and  
27 use taxes under the Nebraska Revenue Act of 1967, the Local Option  
28 Revenue Act, and sections 13-319 and 13-324 and section 12 of this



1 act which are not otherwise refundable that are paid on purchases,  
2 including rentals, for use at the project.

3 (b) The credits may be used as allowed in subdivision (a)  
4 of this subsection and shall be applied in the order in which they  
5 were first allowed. Any decision on how part of the credit is  
6 applied shall not limit how the remaining credit could be applied  
7 under this section.

8 (c) The credit may be carried over until fully utilized,  
9 except that such credit may not be carried over more than eight  
10 years after the end of the entitlement period.

11 (2)(a) No refund claims shall be filed until after the  
12 required levels of employment and investment have been met.

13 (b) Refund claims shall be filed no more than once each  
14 quarter for refunds under the Employment and Investment Growth Act,  
15 except that any claim for a refund in excess of twenty-five  
16 thousand dollars may be filed at any time.

17 (c) Any refund claim for sales and use tax on materials  
18 incorporated into real estate as a part of the project shall be  
19 filed by and the refund paid to the owner of the improvement to  
20 real estate. A refund claim for such materials purchased by a  
21 purchasing agent shall include a copy of the purchasing agent  
22 appointment, the contract price, and a certification by the  
23 contractor or repairperson of the percentage of the materials  
24 incorporated into the project on which sales and use taxes were  
25 paid to Nebraska after appointment as purchasing agent.

26 (d) All refund claims shall be filed, processed, and  
27 allowed as any other claim under section 77-2708, except that the  
28 amounts allowed to be refunded under the Employment and Investment

1 Growth Act shall be deemed to be overpayments and shall be refunded  
2 notwithstanding any limitation in subdivision (2)(a) of section  
3 77-2708. The refund may be allowed if the claim is filed within  
4 three calendar years from the end of the year the required levels  
5 of employment and investment are met or within the period set forth  
6 in section 77-2708.

7 (e) Interest shall not be allowed on any sales and use  
8 taxes refunded under the Employment and Investment Growth Act.

9 (3) The appointment of purchasing agents shall be  
10 recognized for the purpose of changing the status of a contractor  
11 or repairperson as the ultimate consumer of tangible personal  
12 property purchased after the date of the appointment which is  
13 physically incorporated into the project and becomes the property  
14 of the owner of the improvement to real estate. The purchasing  
15 agent shall be jointly liable for the payment of the sales and use  
16 tax on the purchases with the owner of the improvement to real  
17 estate.

18 Sec. 37. Original sections 10-127, 10-131, 10-133,  
19 10-142, 13-503, 13-2202, 23-2323.03, 32-567, 74-1305, 77-2704.31,  
20 77-2711, 77-4105, and 77-4106, Reissue Revised Statutes of  
21 Nebraska, and sections 23-2301, 23-2306, 23-2331, 77-3442, and  
22 77-3443, Revised Statutes Supplement, 1998, are repealed.